

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MICHELE WHITE,

Plaintiff,

PETITION FOR REMOVAL

-against-

Jury Trial Demanded

THE STOP & SHOP SUPERMARKET COMPANY LLC  
d/b/a STOP & SHOP STORE # 0506,

Docket No:

Defendant.

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Defendant, THE STOP & SHOP SUPERMARKET COMPANY LLC s/h/a THE STOP & SHOP SUPERMARKET COMPANY LLC d/b/a STOP & SHOP STORE # 0506, (hereinafter “STOP & SHOP”), petitioner for the removal of this action from the Supreme Court of the State of New York, County of Kings, to the United States District Court, Eastern District of New York, respectfully shows this Honorable Court:

**FIRST:** Plaintiff commenced an action against the above named defendant in a Civil Action brought against it in the Supreme Court of the State of New York, County of Kings, entitled:

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS**

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MICHELE WHITE,

Plaintiff,

**Index No. 514785/2022**

-against-

THE STOP & SHOP SUPERMARKET COMPANY LLC  
d/b/a STOP & SHOP STORE # 0506,

Defendant.

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A copy of the Summons and Complaint in this action is annexed hereto as ***Exhibit “A”*** and made a part hereof. Defendant STOP & SHOP interposed its Answer, a copy of which is annexed hereto as ***Exhibit “B”***. Plaintiff served her Verified Bill of Particulars and responses to STOP & SHOP’s combined demands on or about August 24, 2022, a copy of which is annexed hereto as ***Exhibit “C”***. Upon information and belief, the foregoing constitutes all process, pleadings and orders allegedly served upon the parties in this action.

**SECOND:** This is an action of civil nature in which the District Courts of the United States have been given original jurisdiction in that there exists diversity of citizenship between the plaintiff and the defendant and the amount in controversy exceeds the sum of \$75,000.00 exclusive of interests and costs. Accordingly, there exists jurisdiction in the District Court of the United States as provided in 28 U.S.C. §1332.

**THIRD:** Under the provision of 28 U.S.C. §1441, the right exists to remove this civil action from the Supreme Court of the State of New York, County of Kings to the United States District Court for Eastern District of New York, which embraces the place where this action is pending. In her complaint Plaintiff, MICHELE WHITE, seeks judgment as a result of personal injuries allegedly sustained on July 20, 2020, at the Stop & Shop Supermarket located at 1009 Flatbush Avenue, Brooklyn, County of Kings, State of New York.

**FOURTH:** The action involves a controversy between citizens of different States. The plaintiff is and was at the commencement of the action, a citizen of Kings County, New York. The Defendant, THE STOP & SHOP SUPERMARKET COMPANY LLC s/h/a THE STOP & SHOP SUPERMARKET COMPANY LLC d/b/a STOP & SHOP STORE # 0506, is a Delaware limited liability company at all times having its principal place of business at 1385 Hancock Street, Quincy, Massachusetts with its sole member being Ahold U.S.A., Inc. Ahold

U.S.A., Inc., is a Delaware Corporation with its principal place of business at 1385 Hancock Street, Quincy, Massachusetts 02169.

**FIFTH:** Upon information and belief, Plaintiff's amount in controversy exceeds the \$75,000.00 threshold. Plaintiff's Complaint did not specify the amount of damages because under NY State CPLR § 3017(c), a plaintiff in a personal injury matter filed in the Supreme Court of the State of New York is not permitted to assert the damages amount in the Complaint. However, on August 24, 2022 plaintiff responded to STOP & SHOP's Notice Pursuant to CPLR § 3017(c) by claiming damages in the amount of \$1,000,000. (See *Exhibit "D"*). In light of Plaintiff's demand, the District Court has jurisdiction over this action.

**SIXTH:** The instant petition is being filed within thirty days of learning this information pursuant to Fed. R. Civ. P. § 1446(b). This action is also being removed within a year of commencement of the Action pursuant to Fed. R. Civ. P. § 1446(b). No party to this action will be prejudiced by removing the Action.

**SEVENTH:** In accordance with the requirements of 28 U.S.C. § 1446 Defendant attaches herewith and incorporates herein by reference copies of the following items served in this action:

a. Plaintiff's Summons and Complaint against the Defendant for damages filed in the Supreme Court of the State of New York, County of Kings bearing Index Number 514785/2022 (*Exhibit "A"*).

b. The Answer interposed on behalf of THE STOP & SHOP SUPERMARKET COMPANY LLC s/h/a THE STOP & SHOP SUPERMARKET COMPANY LLC d/b/a STOP & SHOP STORE # 0506 (*Exhibit "B"*).

c. The Bill of Particulars and responses to Stop & Shop's initial demands. (*Exhibit*

“C”).

d. The plaintiff’s Response to Notice pursuant to CPLR § 3017(c). (*Exhibit “D”*).

**EIGHTH:** By reason of the forgoing, Defendant desires and is entitled to have this action removed from the Supreme Court of the State of New York, County of Kings to the United States District Court for the Eastern District of New York, such being the district where this suit is pending.

**NINTH:** Concurrent with the filing of service and petition for removal, Defendant is serving this petition for removal upon the plaintiff’s attorney and filing a copy of this petition for removal with the Clerk of the Court for the Supreme Court of the State of New York, County of the Kings.

**WHEREFORE,** defendant THE STOP & SHOP SUPERMARKET COMPANY LLC s/h/a THE STOP & SHOP SUPERMARKET COMPANY LLC d/b/a STOP & SHOP STORE # 0506, prays that the above entitled action now pending against them in the Supreme Court of the State of New York, County of Kings be respectfully removed from that Court to the United States District Court for the Eastern District of New York.

Dated: Garden City, New York  
August 30, 2022

Yours, etc.,

*Andria S. Kelly*

ANDRIA S. KELLY, ESQ.  
**CULLEN and DYKMAN, LLP**  
Attorneys for Defendant,  
THE STOP & SHOP SUPERMARKET  
COMPANY LLC s/h/a THE STOP & SHOP  
SUPERMARKET COMPANY LLC d/b/a  
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Our File No.: 23003-359 ASK

TO:

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